

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MASSACHUSETTS

In re:)	
)	Chapter 7, No. 23-40709
WESTBOROUGH SPE LLC)	
)	
Debtor)	
)	

**TRUSTEE’S UPDATED RESPONSE TO ORDER FOR STATUS REPORT
REGARDING RELEASE OF INFORMATION FOR COMPLIANCE WITH THE
FINANCIAL CRIMES ENFORCEMENT NETWORK REQUIREMENTS**

NOW comes JONATHAN R. GOLDSMITH, the duly appointed, qualified and acting Trustee (“Trustee”) in the above-captioned case, and hereby files this updated response to the Court’s Order for Updated Status Report Regarding Release of Information for Compliance with the Financial Crimes Enforcement Network Requirements (“FinCEN”) (Docket No. 105).

After reviewing information from various sources, it appears that FinCEN continues to review the issue whether bankruptcy trustees have a duty to report beneficial ownership information on the debtor’s behalf under the Corporate Transparency Act (“CTA”). There is also a case now pending before the Bankruptcy Court for the Eastern District of North Carolina, *In re BOA Nutrition, Inc.*, No. 23-03665-5-PWM (Bankr. E.D.N.C.), where the Bankruptcy Administrator moved the bankruptcy court for an order determining that a Chapter 7 trustee has no duty, pursuant to the CTA, to report a Chapter 7 debtor’s beneficial ownership information to FinCEN. The case is still pending, and the docket reflects that the U.S. Treasury has until May 27, 2024 to respond to the motion. Also, on March 1, 2024, the United States District Court for the Northern District of Alabama ruled that the CTA was unconstitutional. *Nat’l Small Bus. United v. Yellen*, No. 5:22-cv-01448-LCB (N.D.Ala. 2022). However, the government is only enjoined from enforcing the Act against the plaintiffs in that case. DOJ has since appealed the Alabama court’s decision.

Since the reporting requirement under FinCEN for the year 2024 can be submitted up until January 1, 2025, the Trustee requests that he be afforded an opportunity to file an updated status report three months from now at which time he hopes there will be further clarification as to whether Chapter 7 Trustees are required to comply with reporting obligation under the CTA..

JONATHAN R. GOLDSMITH, TRUSTEE IN
BANKRUPTCY FOR WESTBOROUGH SPE
LLC

Dated: 5/23/24

By: /s/ Jonathan R. Goldsmith, Esq.
JONATHAN R. GOLDSMITH, ESQ.
(BBO No. 548285)
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CERTIFICATE OF SERVICE

I, JONATHAN R. GOLDSMITH, ESQ., of GOLDSMITH, KATZ & ARGENIO, P.C., 1350 Main Street, Suite 1505, Springfield, Massachusetts, do hereby certify that I served a copy of the within Response upon those parties listed below by electronic mail or by mailing, first class mail, postage prepaid, on this *23rd* day of May, 2024:

Richard T. King, Esq.
OFFICE OF THE U.S. TRUSTEE
446 Main Street, 14th Floor
Worcester, MA 01608

/s/ Jonathan R. Goldsmith, Esq.
JONATHAN R. GOLDSMITH, ESQ.